

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 00-0366

**Individual Income Tax
Calendar Years 1998 and 1999**

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ISSUE(S)

I Prison Investment Credits— Application

Authority: IC 6-3.1-6-2, Information Bulletin #59,

Taxpayer protests the disallowance of the Prison Investment Credit.

II. Tax Administration - Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer protests the disallowance of the Prison Investment Credit that was passed through to him from an S-corporation. PIC is a nonrefundable credit which means the credit allowed is only up to the tax due amount. S-Corporations have no tax due and IC 6-3.1-6 allows no credit to the individual.

Taxpayer states its company is a subchapter S Corporation licensed to do business in Indiana and used prisoners for its assembly work beginning in 1998. Taxpayer further states that the S corporation has complied with all rules and filings regarding the Indiana Prison Investment Credit (IC 6-3.1-6) and flowed the credits through to its shareholders according to the Indiana S corporation instructions.

I. Prison Investment Credits - Application

DISCUSSION

Taxpayer took an investment credit on his individual income tax returns for 1998 and 1999 for the Prison Investment paid by an S-Corporation.

PIC is a non-Refundable Credit, which means the credit allowed is only up to the amount of tax due. The S-Corporation had no tax due and the S-Corporation is allowed only a deduction on its return. There is no provision in the Indiana Code or Regulations that allows credit to flow through to the shareholder.

FINDING

Taxpayer's protest is denied.

II. Tax Administration - Penalty

DISCUSSION

Taxpayer was assessed a penalty after the department made adjustments to the returns for the Prison Investment Credit. The Department believes the Taxpayer had reasonable cause to believe it could take a credit.

FINDING

Taxpayer's protest is sustained.

CONCLUSION

Taxpayer's protest is denied in Issue I and sustained in Issue II.